

Tribal Questions

What is the legal status of American Indian and Alaska Native Tribes?

Article 1, Section 8 of the Constitution of the United States vests the Federal Government with the authority to engage in relations with the Tribes that firmly places Tribes in the Constitutional Family of our nation. Tribes possess a nationhood status and retain powers of self-government.

What are the inherent powers of Tribal Self-government?

Tribes possess all powers of government except those that have been expressly extinguished by Congress or which the Supreme Court has ruled are inconsistent with overriding national interests. Tribes have the right to: (1) form their own government; (2) make civil and criminal laws; (3) enforce civil and criminal laws; (4) levy taxes; (5) establish membership criteria; (6) regulate, license and zone; (7) exclude persons from Tribal territories. The only limitations on Tribal powers of self-government are those imposed on state governments. Both Tribal and state governments cannot: (1) make war; (2) engage in foreign relations and (3) coin money.

How are Tribes organized?

Tribes have the inherent right to operate under their own governmental systems. Many have adopted constitutions. The chief executive of the Tribe is generally called the Tribal chairperson or principal chief, governor or president. The chief executive presides over the Tribal Council. The Tribal Council provides the legislative function for the Tribe.

What is the definition of the term “Federally Recognized Tribe”?

Recognition is a legal term meaning that the US recognizes a government-to-government relationship with a Tribe and that a Tribe exists politically in what is termed a “domestic dependent nation status.” A federally recognized Tribe is one that has existed, or evolved as a successor to one that existed, from original contact with non-Indians. Federally recognized Tribes possess certain inherent rights of self-government and entitlement to certain federal benefits, services and protections because of the special trust relationship.

What is the jurisdiction of Tribal Courts?

Tribal courts have civil jurisdiction over Indians and non-Indians who either reside or do business on the reservation. Tribal courts have criminal jurisdiction over Tribal offenses committed by American Indians occurring in Indian country.

Why are American Indians and Alaska Natives sometimes referred to as Native Americans?

When referring to American Indians or Alaska Natives, it is appropriate to use the terms American Indians and Alaska Natives because these terms denote the cultural distinction between the indigenous peoples of the continental US and those of Alaska. While the term, “Native Americans,” came into usage in the 1960’s with respect to American Indians and Alaska Natives, over time, usage of the term expanded to include all native peoples of the US and its territories, including Native Hawaiians, Chamorros, and American Samoans.

Are American Indians and Alaska Native citizens?

American Indians and Alaska Natives are citizens of the US and of the states in which they reside. They are also citizens of the Tribes to which they belong according to the criteria established by the Tribe.

What is the relationship between the US and the Tribes?

The relationship between the Tribes and the US is one of a government-to-government. This principle has shaped the entire history of dealings between the federal government and the Tribes, and is lodged in the US Constitution.

Can American Indians and Alaska Natives vote?

American Indians and Alaska Native have the same right to vote as all US citizens. American Indians and Alaska Natives vote in state, local and Tribal elections. Just as states have the sovereign right to establish voter eligibility criteria, each Tribe has the right to determine its voter eligibility criteria.

Who is an American Indian or Alaska Native?

As a general principle an Indian is a person who is of some degree of Indian blood and who is recognized as an Indian by a Tribe and or the US. No single Federal or Tribal criterion establishes a person as an Indian. Government agencies use different criteria to determine eligibility for programs and services. Tribes also have varying eligibility criteria for membership.

It is important to understand the difference between the ethnological term “Indian” and the political/legal term “Indian.” The protections and services provided by the US on behalf of Tribal members flow not from an individual’s status as an American Indian in an ethnological sense, but because the person is a member of a Tribe recognized by the US, and with which the US has a special trust relationship, which entails certain legally enforceable obligations and responsibilities.

Do American Indians and Alaska Natives have the right to hold federal, state and local government offices?

American Indians and Alaska Natives have the same rights as all citizens to hold public office. In this century, American Indian and Alaska Native men and women have held elected and appointed offices at all levels of state, local and federal government.

Did all American Indians and Alaska Natives speak a common language?

American Indians and Alaska Native speak many diverse languages. By the end of the 15th century, more that 300 American Indian and Alaska Native languages were spoken. Today, some 250 Tribal languages are both spoken and many are written.

What is a reservation?

Reservations are territories reserved as permanent Tribal homelands. Some reservations were created by treaties while others were created by statutes and executive orders.

What is meant by Tribal self-determination and self-governance?

Under self-determination and self-governance laws, Tribes have been accorded the authority to control and operate federally funded and administered programs whenever Tribal governments choose to do so.

What is the relationship between Tribal and State Governments?

Because the Constitution vests authority over Indian affairs in the federal government, states, generally have no authority over Tribal governments. Tribal governments are not subordinate to state governments and they retain the right to enact and enforce stricter or more lenient laws and regulations than those of neighboring states. Tribes frequently collaborate with states through compacts and other agreements. The Tribal-to-State relationship is one of a government-to-government.

What are “treaty rights”?

From 1777 to 1871, US relations with individual Indian nations were conducted through treaty negotiations. These “contracts between nations” created unique sets of rights for the benefit of each of the treaty making Tribes. These rights, like any other treaty obligations of the US, represent “the supreme law of the land.”

What is the Federal Trust Responsibility?

The Federal Indian Trust Responsibility is a legal obligation under which the US “has charged itself with the moral obligations of the highest responsibility and trust” toward Indian Tribes. The federal trust responsibility is a legally enforceable fiduciary obligation on the part of the US to protect Tribal lands, assets, resources and treaty rights.

How many American Indians and Alaska Natives live in the US?

4.1 million US residents reported themselves as American Indian and Alaska Native alone or in combination with one of more races in Census 2000. 2.5 million US residents reported themselves as American Indian and Alaska Native alone.